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The Right to Freedom

The Bulletin of the Human Rights Centre "Viasna"



At press-conference. Photo of "RF"

Authorities Interfere With Investigation...

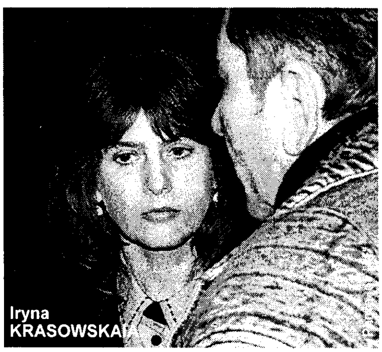
On December 20 in Miensk the Public Association "Human Rights Center "Viasna" carried out a press conference with friends and relatives of the people who had disappeared.

Yury Zakharanka, ex-minister of internal fairs of the Republic of Belarus, disappeared on April 8, 1999. Since then the investigation of the criminal case concerning the disappearance has shown no results. The same thing happened to other similar cases, initiated after disappearance of V. Hanchar, A. Krasowski, D. Zavadskiy and others. "The State bodies only pretend to be searching for the missing Belarusian citizens", – B. Hiunter, an HRC "Viasna" representative, emphasized at the press conference. "It seems that the authorities want to "bury" these cases. And it is extremely dangerous, because if these cases aren't investigated and the culprits remain unpunished, such crimes will repeat..."

Zinaida Hanchar and Iryna Krasowskaia also spoke at the press conference. "Only one man was interested in Victar's disappearance", – said Z. Hanchar, – "only he can give orders to the law machinery. The investigators must look into this version first of all, but it's impossible for them..." Z. Hanchar also expressed her anxiety because recently she has many times noticed somebody watch her. She thinks that the authorities warn her against touching her husband's case and hint that she must go out of the country like Volha Zakharanka and Hanchar's chauffeur Lychow.



Zinaida HANCHAR. Photo of "RF"



Iryna KRASOWSKAIA

Chronicle

On December 5 **Valiery Kishchuk, a disabled person, expressed his silent protest sitting in his wheelchair in front of the building of the Miensk City Executive Committee (MCEC). He protested against the violation and the disregard of his human rights. Valiery Kishchuk suffers because of the inhumane living conditions and absence of social guarantees. Two policemen dressed as civilians assaulted V. Kishchuk following the order of the MCEC workers. V. Kishchuk asked them what they wanted from him. As a response he heard foul language and threats to beat him up. The policemen explained to him that as they were off duty, the court will treat their actions as actions of ordinary citizens. They attempted to throw him out of his wheelchair. V. Kishchuk considers such actions as mockery of the authorities of him as a person and a citizen. He composed an application to the HRC "Viasna", where he described the actions of the policemen towards him.**

At night between December 12 and 13 **the office of the Navapolatsk Public association of cultural-educational initiatives "Usiaslaw Charadziei" was robbed. The workers of the organization who came to the office in the morning saw that the front door was opened and in the middle of one of the rooms there were the caps from computer system units. The robbers damaged three out of the five office computers. Almost all the details were stolen from two computers, from the third one the robbers stole the hard disk. The organization applied to the police concerning the fact of the break-in. A criminal case was initiated.**

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«We Are People, Not Animals!»

That was the main slogan of the meeting of Belarusian businessmen on December 18

Belarusian entrepreneurs show ultimate insistence in defending their rights. Lukashenka hasn't considered the "lousy fleas" his electorate for a long time. That's why he treats businessmen very harshly. Besides, now one can fill the State budget only with money one gets from the people who have their own business, therefore the taxes policies are getting more and more violent.



Photo of "RF"

On December 18 the Belarusian Businessmen Union, the Businessmen Strike Committee, Independent trade unions carried out in Miensk a meeting in defense of businessmen. The meeting took place at Banhalor square. The businessmen protested against the decree of the revenue committee concerning revenue registration of the goods imported from foreign countries through the Russian Federation. They demanded to abolish the groundlessly large administrative fines, stop administrative and criminal arrests of businessmen for wiredrawn reasons, abolish the obligatory account registration at the fixed tax rate, reduce the rent of trading places at markets. Besides, the businessmen demanded retirement of Hienadz Varantsow, Minister of Justice, who refused to register the Belarusian Union of Businessmen. Though there weren't many people at the meeting, the businessmen confirmed their readiness to fight together for their rights.

After separate actions of protest in Belarus they plan to pass on to nation-wide ones. If the authorities don't turn attention to their claims, from January 1 to January 5 a warning strike will be carried out: all businessmen will stay at home.

Own correspondent.



Photo of "RF"

Non-standard Sentence

On December 4-8 the Homiel Chyhunachny District Court passed a unique verdict. A woman was found guilty of administrative violation, fined, amnestied and found innocent...

On November 24 1998 a criminal case by the terms of the first part of Article No. 91 of the Criminal Code of the Republic of Belarus (theft of asset through misfeasance) was initiated against T.L. Tsierashkova, the chief accountant of the Homiel factory of sport modeling and school-books. She was arrested. As Tsierashkova didn't plead guilty and was innocent, she went on a hunger-strike that lasted 37 days. The prison guards put her into a black hole and used forcible feeding. The first consideration of the case took place in the Homiel Chyhunachny District Court. The court rendered a guilty verdict, but the supreme court abolished it basing on the cassation complaint and directed the case to the same court for the reconsideration by other judges. The second trial ended in an absolutory verdict concerning criminal violation. The case was classified as administrative. But T.L. Tsierashkova didn't agree to the decision and appealed against it. Homiel representatives of the BHC and the PA 'Viasna" (B.I. in the capacity of public defender from "Viasna") and a representative of COG OSCE N. Dudarava were present at the third trial. At the trial T.L. Tsiearashkova said that she hadn't stolen anything. At the beginning of 1998 she had applied to the former factory director, asking him to help with making of two balcony frames at the price established for the factory workers. The frames were made in 4 months. During that time the factory received a new director. This director ordered the workers to install these frames. Later the relations between T.L. Tsierashkova and the new director became worse. When she wanted to pay for the frames, her money wasn't taken. The director filed an application to the Department for Economic Crimes. This application lead to the criminal case.

The case consideration lasted five days. As a result such a non-standard verdict was rendered.

Information Department, HRC "Viasna".

Yulia CHYHIR: «Repressive Machine Started in the 30s Is Still Working»

Interview with Yulia CHYHIR, wife of the former Premier of the Republic of Belarus, political prisoner Mikhail Chyhir

— Yulia Stanislavawna, in the last year of the XX century your family faced many events, including unpleasant ones: trials over you and your husband, the unsuccessful attempt to run for the Parliament, constant pressure on the part of the authorities. How do you feel about this?

— This year was really a complicated year for my husband and me. On the other hand I can't call it difficult, though it demanded much energy for participation in public and political life. The thing is that everything that happened in that year was a reaction to our actions after 1996 and especially in 1999, to our remarks about the economic policies of the authorities, dictatorial methods of governing, to our statements about participation in political confrontation and our opposition to the country government. Here I should emphasize that we consciously took part in the elections and expected the conflict with the authorities.

— The Supreme Court of the Republic of Belarus has recently abolished the previous verdict on Mikhail Mikalaievich's case. Do you think it was done because of the protest of the Procurator's office or the defense lawyers' complaint?

— I will begin with the direct answer to this question and then explain my words: the supreme judicial body found the sentence illegal, unjust, but expressed it in a hidden form. So, the court issued a notice from which it is clear that the trial had no reasons either for inflicting the stricter sentence, or passing the sentence at all. That's why the case materials weren't directed to the court of original jurisdiction for reconsideration, but to the fact-finding bodies for gathering more substantial evidence of my husband's guilt. The court ordered the Procurator's office to more thoroughly analyze the present legislation and decide whether Chyhir had violated it, whether this violations were of criminal nature and whether any negative consequences were there. The question was formulated in this way because the documents presented to the court witness innocence of the defendant.

Three professional judges considered the case in the board of the Supreme Court of the Republic of Belarus. They were to confirm the obviously illegal sentence. The Criminal Code provides responsibility for such actions. I think that it was the main reason why the board didn't confirm the sentence. The judges didn't want to participate in the crime. But because of their dependence on the authorities they couldn't pass a "not-guilty" verdict and directed the case for further investigation.

Now this investigation has no sense. There's no point in searching for evidence of my husband's guilt, no matter how many investigators will participate in it.

— Mikhail Mikalaievich has already stated that he is going to stand for the Presidential position. How long will the investigation of his case last?

— I don't think the authorities will manage to pass any materials over to the fact-finding bodies, any criminal cases to the court in order to give Chyhir the damning verdict, because they don't have such materials.

— You have also been sentenced to 2 years of imprisonment with the suspension of the sentence for 1 year. Have you and your advocates composed the cassation complaint?

— I've submitted a preliminary cassation complaint that is written before familiarization with the protocol of the court sitting. In this complaint I expressed my disagreement with the sentence because of its being illegal. After familiarization one writes a detailed complaint with references to normative acts, laws and proceedings records of the court sittings. I haven't composed a grounded complaint yet. I have written comments to the proceedings record. These comments take up 40 pages. The thing is that the record was mercilessly corrupted in order make it meet the accusations. In my comments I quote the real witnesses as they were presented at the court sitting. As far as I understand this is a practice of our courts: they frame the witnesses in order to prove the legal nature of sentences. If one knows our legislation well, understands the essence of the frame-ups made and isn't idle to write many letters and other papers, one can and must argue even in our country.

I think that I will manage to have my sentence abolished (if not in the city court, then in the supreme judicial bodies) with the cassation complaint



Yulia CHYHIR.

and complaints to the observing bodies. I hope so, because the illegal nature of the sentence is evident. On the other hand, I read the record of proceedings as it was composed in the court and if I had been in someone else's place I would have believed that the defendant was really guilty.

— Whose testimonies were falsified – yours, those of other witnesses?

— The testimonies of all the people who were present at the trial – my own ones, the testimonies of other people, and even Amielchanka's (the injured policeman). It seems that only small details were changed, but the sense becomes absolutely different.

— Did you talk with Amielchanka before the trial? What did he tell you?

— You know, I talk with such people only if I think that they've made a mistake or they are in a difficult situation – maybe he was made to write this application... But from our previous meetings and his speech in the court I understood that he was a real brock. Even if I know that I can be imprisoned, I don't talk with such people, it's beneath my dignity.

— Many politicians were judged

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«Repressive Machine Started in the 30s Is Still Working»

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in the city court. But there were no precedents when a politician's wife was judged after him. Why was it done?

— The thing is that, as far as I know, the regional and the republican police authorities "like" me very much. For the two years of consideration of my husband's case the Procurator's office has also begun to "like" me. I cause much trouble to them. If you know where to register the violation of your rights and how to leave this information in the case, you have the opportunity to appeal against the illegal decisions. I know how to make it and was dealing with these things, causing much trouble to the workers of the Procurator's office and police authorities. Besides, I was careless enough to boldly question their low professional level and slave-like dependence on the State. I always pointed out their mistakes which irritated them. I even remember that in one of his interviews Mr. Hlukhowski said expressing his surprise with the mild sentence to Chyhir: "These people have always spat at investigators' backs". It was about me. Once I met Hlukhowski in a shop. I came to him and told him everything I thought about him: he became green with anger but couldn't do anything in that situation. That's why they took revenge on me for everything.

— Does your family get moral support?

— I want to emphasize the things I've many times told journalist: my family and I feel that many people have supported us all the time. Almost all our friends stayed with us. We are very proud of the fact that we've chosen right friends and they didn't betray us in this difficult time. Sometimes people tell: when one has power, many people support him, when one loses it, many old friends turn away from him. I want to tell you that it's not our case. Such things happen because many of those who have power make friends with the people whom they need, who can help them, basing on some material interests. We are proud that there are many people with us, we receive moral and sometimes even material support from them – our family hasn't worked for much time and we needed much money to pay for the lawyers' services. Even now our life demands some expenditures connected with our political struggle. We have many friends who help us.

— Yulia Stanislavawna, when your husband was kept in prison, we talked with you about attempts of the authorities to pressurize your family through your children. Have these attempts repeated in 2000? How did your sons spend this year?

— Our children also fell pressure on the part of the authorities. Now they disturb my younger son less than they used to. Check-ups of his activity have not given any results. He is married with a little child and can't be drafted into the army now. There's nothing he can be punished for as he doesn't have any business. There was more pressure on my elder son. This year his child became three years old. Though according to the legislation he could only be drafted into the army the following year, phone calls requiring him to come to the military committee began in April. Even today in the morning a policeman phoned me and said that my son is wanted for evasion from army service. Here I should repeat: this year he has the legal right not to serve in the army. Earlier the authorities checked the firms where he worked, called him to the fiscal inspectorates where the inspection officers groundlessly claimed different things from him. At the beginning of August 2000 he went to Germany and asked for political asylum. Now he is abroad and is not going to return. When he was there, we received a strange paper which said that he evaded from paying of some money. There wasn't written whom and why he should have paid this money. I know that nobody had any claims to him. The paper also stated that the police would come to us to seize the son's property in order to exact money (the sum wasn't specified). When I tried to inquire whom my son was to pay the money and how much, it appeared so that he had ostensibly been stopped and fined 3,5 million Belarusian rubles by the road inspection. Because of this sum of money they were trying to intimidate us with attachment of property. It was a measure of psychological pressure. Today I was also informed that there was an order to forcibly call my son to the army.



M. Chyhir, Iu. Chyhir and H. Pahaniaila (right to left) at the trial.

— I want to say that the authorities have problems calling members of our family to responsibility. Instead of executing orders, ordinary policemen tell us what orders they receive and when it's better to keep away from the police. That's why police officers had to come to me together with ordinary policemen even to give me investigator's summons.

— Earlier, when a lawyer, I often came across illegal sentences passed on the people in conflict with the authorities. Even at that time I helped some of them to defend their rights, prepare suits… I know that this repressive machine has been working since the 30s. I know many people who before perestroika received papers that they were mentally disturbed because of somebody's order. It's terrible that this machine is still working… In future it will be necessary to carry out decisive reforms of the judiciary system.

— Maybe, it's also worthwhile to reconsider criminal cases on some articles, for instance economic cases…

— I think that a group of lawyers should be created to accept complaints from people judged 5 or 10 years ago. In court I got acquainted with one woman who didn't participate in the politics – she had a conflict with a policeman. She got into a conflict situation and wanted to prove that the policeman had illegally used force against her and had to be punished. She has been proving her innocence in courts for four years already. And the authorities took revenge on her son whom they put into prison. Now they are try to handle the case as if she were mentally disturbed. She really can't keep herself calm anymore because she has a neurosis. But she is not mentally disturbed, she got neurosis struggling against the State machine!..

— Why have you decided to stand for a deputy position in Lukashenka's parliament?

—I participated in the election not because of my desire to become a de-

puty. I didn't believe in this opportunity and in its usefulness. I wanted to show how the elections were going on in Belarus through my own experience. I thought that if opposition didn't take part in the elections it would allow Lukashenka to say: "I gave them such opportunity and they didn't use it". And we would have nothing to say against it. I knew that the opposition wouldn't be admitted to participation in the election and there would be numerous violations. I went to the polls in order to be a witness to and an object of these violations, I wanted the world to see it. I think that I fulfilled my duty properly.

— If your husband becomes President, what would you like to do? And what changes will be necessary for the Belarusian economy?

— I don't want to speak about the economy, because I want to be neither president, nor his close aide. I just want to remind some things about my husband's programme. Some days ago I took "Main Directions of the Economic Development of Belarus" that was adopted in 1996, a month before his retirement. It was his economic programme. This is a very interesting programme. I think that it can be published as a programme of a candidate for the Presidential position. The programme includes a detailed description of the development of the private sector, the land, the investments, directions of cooperation, Belarusian culture and sovereignty. The thing is that since Chyhir retired nobody has been following this programme. It was very interesting for me to read this programme because everything that is done in the Belarusian economy now is done the other way round. I think that people will find it interesting to familiarize themselves with it. All the more so that it wouldn't be a populist programme of a candidate for the Presidential position but a real programme of Prime-minister Mikhail Chyhir, the programme which he had wanted to implement. And the incumbent president didn't want to follow this programme.

If it is necessary, I will execute the duties of President's wife: participation in public actions connected with charity, civil rights. I will actively participate in public life of the country. In my opinion, I possess some organizational abilities. I've dreamed all my life of organizing an enterprise or an organization providing the population with some service. It's possible that I will choose some juridical activity. There are also other plans. For instance, I like flowers very much and can make myself busy growing them. In any case, I want to have a business of my own...

In general, I would like the new president to have democratic views so that it is be possible for me to have my dreams come true, to show my initiative. If that doesn't happen, I'll have to keep dreaming till the situation changes. I believe that the situation will change. I believe that my dreams will come true and I will have my own business in the service sector.

— May success attend you!

Interview was taken by Tatsiana SNITKO.

Constitution above All...

Lawyer's opinion

The lawyer Siarhiei Tsurko has already been worked with "Viasna" for several years. This year he took part in numerous trials over organizers and participants of the opposition-led boycott campaign against the election of Lukashenka's parliament. As a lawyer he was interested to find whether the authorities had been acting legally towards the political activists, who participated in street processions and pickets that had taken place in Miensk and other cities of Belarus, and what laws served as ground for their actions.
As a result of his observations Siarhiei Tsurko wrote the article that is published in "RtF".
The author emphasizes that this article illustrates his own position and can't be considered as absolute truth.

The Constitution of the Republic of Belarus, Law "On Assemblies, Processions, Meetings, Demonstrations and Pickets" adopted on December 30, 1997 and changed later, Presidential Decree No. 36 "On some Measures for Prevention of Extraordinary Situations" issued on September 9, 1999 and acts of the local authorities serve as the juridical ground for trials against politically active citizens.

I faced incorrect usage of norms of material law by administrative judges.

Here I only propose an analysis of Article No. 167.1 of the Code of Administrative Infringements (CAI) of the Republic of Belarus "Violation of Order of Organization and Holding of Assemblies, Processions, Demonstrations and Pickets" for illustration of my position, because courts very often consider cases based on this article. As a rule, after mass protests and other opposition-led events the police carry out mass detentions of participants of such events, draw up reports registering their participation in unauthorized processions, pickets, etc. Then policemen take the detainees to courts together with these reports. As the court rulings show, with rare exclusions, administrative judges stop the cases based on this article. But the people who took part in unauthorized picketing are fined or imprisoned. I will additionally dwell on the order of detention and punishment of the people who participate in pickets. According to the article it is often enough to have reports of the policemen who have witnessed one's presence in the place of the event. At trials policemen usually say that defendants were standing silent, didn't express any protest (that is one of the components of a person's guilt in unauthorized picketing). Sometimes they say that the defendant was holding a poster with some information. So, it's enough to have a police report to punish a person for violation of the first or the second part of Article No. 167-1, depending on the signs of violation.

I don't argue here for the preservation of this article or its exclusion from the Code of Administrative Violations. My aim is to find whether the judges render legal verdicts on the basis of Article No. 167-1, whether ordinary participants of protests can be punished and who can be punished on the basis of disposition of the first part of the article.

Let's begin from the article disposition: "Violation of the fixed order of organizing or holding of assemblies ... and pickets". The order of organizing and holding of such events is fixed in Law "On Assemblies, Meetings, Processions, Demonstrations and Pickets". In Article No. 2 there are definitions of the main concepts of the law. But there's no definition of such concepts as "organizer" or "participant" of an event. In the second part of Article No. 2 it is explained who can be the organizer of an event and the order of organizing of an event is explained. Here a natural question occurs: is it necessary to give definition of "participant"? I think it is, but there's no definition in Article No. 167-1 of the CAI and in the aforementioned law either. Article No. 11 of the law defines the order of holding of assemblies, meetings, processions, demonstrations and pickets as well as the duties of organizers of such actions. Article No. 12 defines the limits of the public order and the measures of its preservation during the events. Here it is explained which actions are prohibited for organizers. In the same article participants are mentioned. There's no point in enumeration of prohibitions for the organizers, because simple participation in unauthorized actions isn't prohibited for them by the norms of the law. Article No. 13 states the order of cessation of assemblies, ... and pickets. In this case I consider it necessary to give the full text of the article:

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Events Facts Comments

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On December 15 the workers of the biggest Mahiliow enterprise "Khimvolokno" went on a spontaneous meeting. About 500 people came out into Pushkin Avenue demanding their salaries to be paid at once. The factory administration immediately paid off the wage arrears to the workers.

On December 18 Valiery Shobik, the judge of the Supreme Economic Court of the Republic of Belarus, decided to disallow the "Open Society" claim against the Miensk Lieninski District Fiscal Inspectorate concerning cessation of the sequestration of the asset the institute leased to the publishing company "Magic". The court found the asset which the Belarusian branch of the Soros Foundation passed over to the institute "Open Society" "legally unimportant". It means that the equipment the publishing company "Magic" uses to print almost all opposition periodicals will be confiscated and sold as the assets of the Soros Foundation to pay off the Foundation "debts". The institute "Open Society" is going to apply to Vice-Chairman of the Supreme Economic Court in order to appeal against this verdict. The independent observers assert that the court verdict was clear before the beginning of the trial: the authorities try to create obstacles for the independent mass-media on the eve of the Presidential election.

On December 20 Uladzimir Hancharyk, Chairman of the Belarusian Federation of Trade-unions (BFT), informed us that the committee on freedom of associations of International Work Organization (IWO) is going to consider the complaint of the Belarusian trade unions of BFT and the Belarusian Congress of Democratic Trade-Unions in the end of March 2001 concerning violations of rights of trade unions by the Belarusian authorities.



On December 12 *Belarusian human rights activists and politicians met in Prague with the Czech president Vaclav Havel. V. Viachorka, A. Liabiedzka, A. Mikhalievich, S. Shushkievich and Chairman of the PA HRC "Viasna" Alies Bialiatski were present at the meeting with the former dissident and the incumbent president.*

In Prague the representatives of the Belarusian opposition also met with deputies of the Czech Parliament and workers of the Ministry of Foreign Affairs. At the meetings the problems in the sphere of human rights in Belarus were widely discussed.

On the photo: Alies Bialiatski and Vaclav Havel greet each other.

32 of 43 delegates who participated in the 6th European Assembly of IWO on December 11-17 voted for this question to be considered. The assembly participants demanded that the Belarusian authorities execute the ratified IWO conventions about the freedom of associations, non-intrusion of the government into the internal affairs of trade-unions and the right to strike. If the Belarusian authorities don't change their policy towards the trade-unions, IWO will take serious measures towards the country government. "It means, — emphasized U. Hancharyk, — certain isolation and economic sanctions". On its behalf BFT is going to carry out the action of protest "Raise salaries to the level of costs!" in the middle of February.

On December 21 the team of the independent TV-company "Channel 8" received a statement from the representatives of "Miensk TV information networks". It said that on December 29 the channel would be closed. According to the information of the workers of "Channel 8" the Ministry of Communications is not going to continue the agreement with "Channel 8". The chances are that from January 1, 2001 STV channel established by the Miensk City Executive Committee will work instead of "Channel 8". Though "Channel 8" wasn't standing on an independent position, the authorities disliked it for something.

In December representatives of Belarusian protestant communities expressed public protest against broadcasting of the movie "Expansion" on the National TV. This movie promotes negative attitude towards evangelicals. It was broadcast twice: on October 26 and November 2. The heads of the Protestant churches in the Ukraine and Russia supported the protest.

Information Department, HRC "Viasna"



On December 20 *presentation of the bulletin "the Niamiha Tragedy. Who is to blame?" took place in the M. Bahdanovich museum. The independent investigation was prepared to the publication by the public association "Legal Assistance to Citizens" together with the public association "Center of Social Defense 'Niamiha-99". The bulletin has a collection of the independent press publications, materials of the criminal case initiated because of the death of 53 people in the underground pedestrian crossing of the Miensk metro. Alieh Volchak and Raisa Mikhailowskaia, the drafters of the edition, appeared at the bulletin presentation to take the floor. They emphasized that the authorities haven't found the people guilty in the tragedy, though 1,5 year has already passed...*

CONSTITUTION ABOVE ALL...

(begins on page 5)

"Assemblies, meetings, demonstrations and pickets as well as preparation for them are to be stopped at the demand of Head or Vice-Head of an executive and administrative body, a body of Internal Affairs, the organizer of the action, if there has been no application or if it has been decided to prohibit the event, if the order of holding, stated in Article No. 12, was violated, there was danger to people's life and health, or the public order was violated". This is the first part of the article. So, Article No. 12 is a reason for cessation of actions, though there is no information about prohibition to take part in unauthorized holding of an event or to be exact, about authorized events with partially changed routes. Article No. 15 provides responsibility for the violation of the law, but doesn't provide any responsibility for the change of the route or the place of an event by organizers. This is a blanket norm that sends us back to Article No. 167-1.

From the analysis of Article No. 167-1 of the CAI and the Law "On assemblies, meetings, processions and pickets" it is clear that according to the above mentioned CAI article and Articles No. 12 and 13 ordinary participants of an event shall not be punished for participation in an unauthorized action if the routes are changed, but there are no violations of demands of Article No. 12.

It's obvious that any decision of a court must be based on the body of laws, because all cases must be considered objectively. It's a pity but when courts pass verdicts, the analysis of legislation in its fulfillment is quite weak.

Let's have a look at the disposition of the first part of Article No. 167-1 of CAI to find out whether everything there is understandable and who is to be punished according to it.

I'd like to call readers' attention to the following: on January 10, 2000 in Belarus the Law "On Enactments of the Republic of Belarus". Article No. 23 of the laws describes the main demands for an enactment. The third part of the article says that the terms and the concepts used in the texts of enactments must be clear and have one meaning. The fourth part states that while laying down legal regulations one must avoid excessive generalization or specification of formulations. Part 6 states that formulation of norms of an enactment must be laconic, mostly assertive, and written in present tense.

If we look at Article No. 167-1 of CAV RB we will see, that it's not laconic, doesn't have one clear meaning and it is not very clear how to use it in practice, that's why it's difficult to say who is to be punished for violation of the first part of article No. 167-1. If we stand on the position of the law enforcement duty of the executive bodies, we see that organizers of events are to be judged by the terms of the first part of the article, but for them there's the second part. So, there again appears a question: who can be punished by the terms of the first part? The Constitutional Court could clarify that, but it is the prerogative of the Parliament to explain laws.

What conclusion can one arrive at? For courts there's only one: to close cases against ordinary participants of events if they only participated in events.

There's another important question during the court consideration of such cases. During the consideration of each case courts are to find out whether a person has violated any law and what measures are to be taken. That's why in the present situation courts must turn more attention towards the local enactments of the authorities that are one of the reasons for the change of the event routes and, as a result, numerous trials over organizers and participants of events. I mean that the Minsk City Executive Committee always transfers events to People's Friendship Park because of the decision taken on December 17, 1999 according to Presidential decree No. 36 issued on September 9, 1999.

It seems that courts, leaving this problem unsolved, violate Article No. 8 of the Constitution of the Republic of Belarus that confirms the priority of the international juridical norms and states that the country legislation must meet these norms as well.

On November 12, 1973 the republic of Belarus ratified the International Pact On Civil and Political Rights and since that the Pact has theoretically been in force. On September 30, 1992 the Republic of Belarus made the application concerning the acknowledgement of the competence of the Committee on Human Rights according to Article No. 41 of the Pact to receive and consider information of one country-member of the Pact that another country doesn't execute the Pact undertakings. During the ratification of the Pact and signing protocols to it the Republic of Belarus accepted article No. 21 without any restrictions. It means that it must be executed. Adoption of a law in development of the article norms is an important step. But the following corrections of the law that eliminate the rights of citizens to peaceful assemblies are a sign of complete disregard of the international undertakings of the country, because the practice of the Pact application in other countries and the analogous norm of "European convention about human rights protection" witness that the country members don't have the right to eliminate the freedom of peaceful assemblies, demonstrations, etc. by national legislative acts without serious reasons. Basing on Article No. 21 the Miensk City Executive Committee (MCEC) could determine the place of meetings, pickets etc. only once, if there existed a serious danger to the public security in case of possibility of violent counter-demonstration in the place stated in the application or if the authorities possessed information that holding of an event in a certain place would create danger to the State security, a mass upheaval etc. It seems that MCEC workers might not have known about the existence of the Pact, passing their resolution No. 1330 and that they were to have made their decision meet the constitutional norms, but didn't do that.

So, I think that courts must render verdicts, basing on their own opinion based on the law, taking into consideration the international commitments of the country. In this case a court must decide whether enactments correspond to the law if they don't correspond to the Constitution or other legislative acts. If the court decides that a normative act doesn't correspond to the Constitution, according to Article No. 6 of the Law "On Constitutional Court of the Republic of Belarus" and Article No. 112 of the Constitution a court must apply to the Supreme Court with this question. The Supreme Court submits to the Constitutional Court a proposal about rendering this normative act non-constitutional. The Miensk Council can abolish the MCEC resolution No. 1330. There must also be the appropriate reaction of the court bodies, though there's no reaction for unknown reasons, in spite of the fact that this MCEC resolution is evidently illegal.

So, proceeding from the analysis made, I conclude that during the consideration of the administrative cases on the violation of the order of organizing and holding of assemblies, meetings, processions and pickets (Article No. 167-1 of CAI RB) courts must first of all make use of the Constitution, the International Pact On Civil and Political Rights, Law "On Assemblies, Meetings, Processions, Demonstrations and Pickets". In other words, they must evaluate actions of the people judged for the violation of Article No. 167-1 basing on the above mentioned acts, and then give appropriate judgement to Presidential Decree and the MCEC resolution as well. The Constitution obliges judges to do that, and their civil position must also call them to such actions.

S. TSURKO,
Lawyer.

Totalitarian Regime as a Reason for Growth of National Self-Consciousness

Confession of a young Belarusian citizen

Why am I in opposition? Thanks to Lukashenka. The police first pulled me to a police station for posting the BPF's fly-sheets. They made me a reported delinquent, hit my kidneys with rubber truncheons for several times, called me an oppositional jerk. It was my baptism of fire. Then Lukashenka changed the national symbols. I feel like he has stolen something personal. Azaronak's movie "Nianavists. Dzietsi Khlusni" knocked me out as a rubber truncheon applied to the head. How can one react to lies and insults? He can only resist! I became a member of the youth fraction of the People's Front when I was 14. One must stand for his rights until the end! The right to language, to history, to truth after all. I don't understand how one can bear Lukashenka's lies and injustice. Human rights are studied in every school. Did people get used to human rights violations that happen every minute? I couldn't bear it and I am not going to bear it in future. Since 1998 I have been a member of the Belarusian Freedom Party (BFP). I am satisfied that I have a certain position there. I make my Belarus with my own hands! Our party is getting over all the Presidential obstacles!

— Can you please specify the tasks of your party?

— The national problems are more important for us then the problems of politics. How long will people speak about gradual switch-over to Belarusization? I'm bored with endless waiting! We are for concrete and decisive actions…

— Stones against rubber truncheons?

—It's not the main thing. Now there aren't many reasons to reproach the policemen. They are also Belarusians and begin to understand that Lukashenka's regime has already rotten. It seems that during the latest opposition events the ordinary policemen don't execute their duties to the full extent. There are many examples. For instance, on November 12 during the event "We Want Changes!" special squad police officers forced two members of our party into a bus. After several minutes they let these two people leave the bus through the back door so that the police officers don't see. Policemen feel ashamed if they have to beat their compatriots… Let's proceed to our tasks. The BFP is a radical party. Can it be any other way? Belarus is independent only by word of mouth. In fact, foreigners who don't even remember their nationality have invaded our country. We fight against it. If our human rights are violated, we take concrete counter-measures, sometimes even forcible ones. For instance, we are the only party that fights against the Belarusian branch of the Russian National Unity (RNU). Recollect, what has been recently going on in Miensk. RNU fly-sheets on every telegraph-post, almost open fascist processions in streets and squares. Who is the owner of the house after all? The most offensive thing was that on every detained member of our party the police drew up a report, while there were no reports on the detained RNU members (my acquaintances from ordinary policemen told me that). Our authorities almost kiss their feet. Saviors of the nation! So, we started to deal with this problem. Now they don't dictate us our will, but vice-versa. And the Miensk streets became quieter.

— Does youth support you?

— They will support us when necessary. I am a student. I see the sentiment among the boys and girls. 25-30 % openly support opposition in words and actions, about 30% keep silent, though they aren't satisfied with the present politics. The other half is an amorphous mass, people who don't know anything and therefore are afraid of everything: members of the Belarusian Patriotic Youth Union who come from the periphery and have lived in Miensk for a year or two. Somebody filled their heads with absurd ideas and made them afraid of Lukashenka. Why be afraid of him, man with no nationality? If there is a concrete, clever and interesting alternative to the incumbent president, the youth will choose it without much hesitation.

— You say you aren't afraid of anything?

— Yes. What can they do? Exclude me from the university? Let them do that, they won't bring me to my knees. It's my right to stay a Belarusian in Belarus! And I defend this right with all possible means. By the way, real Belarusians have been doing this since the ancient times. So, we are all almost professional fighters for our own land, things and ideas. Of course, I have given thought to the ways my future can develop in. For instance, I can be arrested and excluded from the university. Emigration? No! I won't leave Belarus, because I have many great things to do here. And I will always have the opportunity to be rehabilitated at my place of study if the government changes. I will be put to prison? I am morally and physically ready to this… Here I should recollect one occasion. It is very eloquent. Once we were leaving a pedestrian crossing together with my friends, speaking Belarusian. Behind us there was a company of young people, the so-called "golden youth". They said to us "You, collective farm workers, stop speaking your village language". One of us couldn't bear this. He turned to them, brought the three youngsters on their knees and made them beg pardon for their words. Was it just? It was. We are not guests, we are on our own Belarusian land. Suddenly there came the police and detained us all. The Parents of these "golden teenagers" were high-ranking officials from Lukashenka's Administration. Our friend was sentenced to a month of imprisonment for "disorderly conduct". He was kept in prison in Valadarsky with criminals. Then he was released on his own recognizance. He got used to the prison conditions and even enjoyed a certain authority among the criminals who also respect Belarus… Every member of our party is reliable, conscious and ready to everything. We are sure that one can only set system against Lukashenka's system… If they put us into prisons, we will become more spiteful.

— Iuras, what is the essence of your system?

— It's not a secret that the opposition is badly structured. Within our party we get rid of this drawback. We seriously prepare for every action. Plus unity of ranks: we defend each other. I was myself detained for several times at opposition events (March of Freedom, Charnobyl track). KGB workers and special police squad officers twisted my arms, but every time my friends saved me. We do such things professionally. Every fortnight we go to the country to have a training session. We also rent sport halls. (Have you seen on TV how RNU members train in the country? Our authorities are almost pleased showing such things, it's us that they treat like extremists. What can we do – we have such authorities nowadays). Promotion of our ideas occupies almost the first place in our activities: fly-sheets, joint cultural measures, demonstration of videos. In short, every our step is thought over and well-prepared. Our power is growing…

I am a Belarusian patriot, or as people in our country call us, nationalist, because nationalism is the ideology of kindness. Scaryna and Kalinowski also were nationalists. And who remembers the surnames of betrayers?..

Iuras and I walk in the street. We speak Belarusian. Two policemen at a bus-stop prick up their ears. I look in the face of a young police sergeant. He is the same age as Iuras, about 20 years old. He averts his eyes. The alert silence of the regime yields to the opposition language.

…Lukashenka has many times said that he won't allow a civil war in Belarus. But it is already going on, and he began it. The war is on not only in the minds, but also in the streets and the squares, during the marches of protest, strikes and demonstrations. The police still detain under-aged people. The main argument in contradictions are the same: lies and a rubber truncheon… But if there's violent action, there appears counteraction…

The BFP symbol is a lion that holds in his claws the ancient Belarusian cross and the motto: "We want to win, we can win, we will win and may God speed us!"

Noted down by
Alies HARKUN.

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